

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Petition for Modification of the Designated	)	
Market Area of Television Broadcast Station	)	CSR-8133-A
WVXF, Charlotte Amalie, Virgin Islands	)	
	)	

**MEMORANDUM OPINION AND ORDER**

**Adopted: June 19, 2009**

**Released: June 19, 2009**

By the Senior Deputy Chief, Policy Division, Media Bureau:

**I. INTRODUCTION**

1. Storefront Television (Storefront), licensee of CBS affiliate WVXF-TV, Channel 17, Charlotte Amalie, Virgin Islands (WVXF or the Station), filed the above-captioned petition for special relief. Pursuant to Sections 76.7 and 76.59 of the Commission's rules, WVXF seeks to modify its broadcast television market, for purposes of the cable television mandatory broadcast signal carriage rules, to include the communities served by two cable systems in the Puerto Rico television market.<sup>1</sup> The cable systems, San Juan Cable, LLC d/b/a OneLink Communications (OneLink)<sup>2</sup> and Liberty Cablevision of Puerto Rico Inc. (Liberty),<sup>3</sup> did not file an opposition or otherwise respond to the Storefront petition. NBC Telemundo License Co., the parent company of the licensee of WKAQ-DT, San Juan, Puerto Rico (NBC), filed an opposition to the petition, to which Storefront has replied. As set forth below, Storefront's market modification petition is granted.

**II. BACKGROUND**

2. Pursuant to Section 614 of the Communications Act and implementing rules adopted by the Commission in *Implementation of the Cable Television Consumer Protection and Competition Act of 1992, Broadcast Signal Carriage Issues* ("Must Carry Order"), commercial television broadcast stations are entitled to assert mandatory carriage rights on cable systems located within the station's market.<sup>4</sup> For

<sup>1</sup> 47 C.F.R. §§ 76.7 and 76.59.

<sup>2</sup> Serving the communities of San Juan, Bayamon, Trujillo Alto, Guaynabo, Carolina, Toa Baja, Catano, and Toa Alta.

<sup>3</sup> Serving the communities of Caguas, Canovanas, Rio Grande, Fajardo, Ceiba, Luquillo, Vega Alta, Vega Baja, Dorado, Manati, Arecibo, Camuy, Hatillo, Barceloneta, San Lorenzo, Juncos, Gurabo, Loiza, Lares, San Sebastian, Utuado, Morovis, Ciales, Corozal, Orocovis, Florida, Las Piedras, Aguas Buenas, Cidra, Humacao, Naguabo, Cayey, Yabucoa, Barranquitas, Comerio, Naranjito, Aibonito, Arecibo (unincorporated), and Manati (unincorporated).

<sup>4</sup> 8 FCC Rcd 2965, 2976-2977 (1993).

most stations, their market for this purpose is their "designated market area," or DMA, as defined by Nielsen Media Research.<sup>5</sup> A DMA is a geographic market designation that defines each television market exclusive of others, based on measured viewing patterns.<sup>6</sup> Three United States territories – Guam, the U.S. Virgin Islands, and the Commonwealth of Puerto Rico – are not included in any Nielsen DMA, but, by rule, are each considered distinct television markets, equivalent to DMAs for the purpose of the carriage rules.<sup>7</sup> "DMA" and "market" are used interchangeably throughout this item.

3. The Commission is directed to consider changes in market areas. Section 614(h)(1)(C) provides that the Commission may:

with respect to a particular television broadcast station, include additional communities within its television market or exclude communities from such station's television market to better effectuate the purposes of this section.<sup>8</sup>

In considering such requests, the 1992 Cable Act provides that:

the Commission shall afford particular attention to the value of localism by taking into account such factors as –

(I) whether the station, or other stations located in the same area, have been historically carried on the cable system or systems within such community;

(II) whether the television station provides coverage or other local service to such community;

(III) whether any other television station that is eligible to be carried by a cable system in such community in fulfillment of the requirements of this section provides news coverage of issues of concern to such community or provides carriage or coverage of sporting and other events of interest to the community;

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<sup>5</sup> Section 614(h)(1)(C) of the Communications Act, as amended by the Telecommunications Act of 1996, provides that a station's market shall be determined by the Commission by regulation or order using, where available, commercial publications which delineate television markets based on viewing patterns. See 47 U.S.C. §534(h)(1)(C). Section 76.55(e) requires that a commercial broadcast television station's market be defined by Nielsen Media Research's DMAs. 47 C.F.R. § 76.55(e); see *Definition of Markets for Purposes of the Cable Television Broadcast Signal Carriage Rules, Order on Reconsideration and Second Report and Order*, 14 FCC Rcd 8366 (1999) ("Modification Final Report and Order").

<sup>6</sup> Essentially, each county in the United States is allocated to a market based on which home-market stations receive a preponderance of total viewing hours in the county. For purposes of this calculation, both over-the-air and cable television viewing are included. For a more complete description of how counties are allocated, see Nielsen Media Research, *Nielsen Station Index: Methodology Techniques and Data Interpretation*.

<sup>7</sup> 47 CFR § 76.55(e). Contra to NBC's claim that Storefront "bears an unusually heavy burden" in arguing for market modification, the Commission has analyzed non-DMA market modification petitions using the same standard as in any other market modification procedure. See generally *Pegasus Cable Television of San German, Inc. and MCT Cablevision, Ltd. P'ship*, 14 FCC Rcd 17849 (Cable Services Bureau 1999).

<sup>8</sup> 47 U.S.C. §534(h)(1)(C).

(IV) evidence of viewing patterns in cable and noncable households within the areas served by the cable system or systems in such community.<sup>9</sup>

The legislative history of the provision states that:

where the presumption in favor of [DMA] carriage would result in cable subscribers losing access to local stations because they are outside the [DMA] in which a local cable system operates, the FCC may make an adjustment to include or exclude particular communities from a television station's market consistent with Congress' objective to ensure that television stations be carried in the area in which they serve and which form their economic market.... [This subsection] establishes certain criteria which the Commission shall consider in acting on requests to modify the geographic area in which stations have signal carriage rights. These factors are not intended to be exclusive, but may be used to demonstrate that a community is part of a particular station's market.<sup>10</sup>

In adopting rules to implement this provision, the Commission indicated that requested changes should be considered on a community-by-community basis rather than on a county-by-county basis, and that they should be treated as specific to particular stations rather than applicable in common to all stations in the market.<sup>11</sup>

4. In the *Modification Final Report and Order*, the Commission, in an effort to promote administrative efficiency, adopted a standardized evidence approach for modification petitions that requires the following evidence be submitted:

- (1) A map or maps illustrating the relevant community locations and geographic features, station transmitter sites, cable system headend locations, terrain features that would affect station reception, mileage between the community and the television station transmitter site, transportation routes and any other evidence contributing to the scope of the market.
- (2) Grade B contour maps delineating the station's technical service area and showing the location of the cable system headends and communities in relation to the service areas. Note to Paragraph (b)(2): Service area maps using Longley-Rice (version 1.2.2) propagation curves may also be included to support a technical service exhibit.<sup>12</sup>
- (3) Available data on shopping and labor patterns in the local market.
- (4) Television station programming information derived from station logs or the local edition of the television guide.
- (5) Cable system channel line-up cards or other exhibits establishing historic carriage,

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<sup>9</sup> *Id.*

<sup>10</sup> H.R. Rep. 102-628, 102d Cong., 2d Sess. 97 (1992).

<sup>11</sup> *Must Carry Order*, 8 FCC Rcd 2965, 2977 n.139.

<sup>12</sup> The Longley-Rice model provides a more accurate representation of a station's technical coverage area because it takes into account such factors as mountains and valleys that are not specifically reflected in a traditional Grade B contour analysis. In situations involving mountainous terrain or other unusual geographical features, Longley-Rice propagation studies can aid in determining whether or not a television station actually provides local service to a community under factor two of the market modification test.

such as television guide listings.

(6) Published audience data for the relevant station showing its average all day audience (i.e., the reported audience averaged over Sunday-Saturday, 7 a.m.-1 a.m., or an equivalent time period) for both cable and noncable households or other specific audience indicia, such as station advertising and sales data or viewer contribution records.<sup>13</sup>

Petitions for special relief to modify television markets that do not include the above evidence shall be dismissed without prejudice and may be re-filed at a later date with the appropriate filing fee. The *Modification Final Report and Order* provides that parties may continue to submit whatever additional evidence they deem appropriate and relevant.

### III. DISCUSSION

5. Storefront has filed a Petition for Special Relief with the Commission.<sup>14</sup> Storefront seeks to include the forty-seven communities in Puerto Rico that are served by OneLink and Liberty (communities) in the television market of WVXF-TV, Channel 17, Charlotte Amalie, Virgin Islands, licensed to Storefront, for the purposes of the Commission's cable television mandatory broadcast signal carriage rules.<sup>15</sup> NBC filed an opposition,<sup>16</sup> and Storefront has filed a reply.<sup>17</sup>

6. As a statutory factor, historical carriage of a station by the cable system serving the subject communities is considered evidence of a close economic relationship between the station and the communities. With respect to historical carriage, Storefront states that WVXF was carried by OneLink from May, 2005 through December, 2008, and has been continuously carried by Liberty since September, 2006.<sup>18</sup> Storefront provides channel line-ups from the two systems in support of these undisputed statements.<sup>19</sup>

7. The carriage of WVXF is indicative of close economic ties between the station and the cable communities. The station has been carried in each of the communities for most or all of the last several years, and continues to be carried in almost all of them. We therefore agree with Storefront that WVXF's history of carriage demonstrates that subscribers in the communities have been meaningfully connected to the station for a significant period of time.

8. Another factor that guides the Bureau's analysis is whether the television station at issue provides coverage or other local service to the cable communities. The parties spend substantial effort debating the level of cultural overlap between the U.S. Virgin Islands and the Commonwealth of Puerto

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<sup>13</sup> 47 C.F.R. §76.59(b).

<sup>14</sup> Petition for Special Relief of Storefront Television, CSR-8133-A (Petition).

<sup>15</sup> See *supra* n.n. 2 and 3.

<sup>16</sup> Opposition of NBC Telemundo License Co. (Opposition).

<sup>17</sup> Reply of Storefront Television (Reply).

<sup>18</sup> Petition at 7.

<sup>19</sup> *Id.* at Exhibits 3 and 4.

Rico. NBC argues that WVXF's "home market" is substantively separate from the cable communities,<sup>20</sup> while Storefront emphasizes the parallel cultural narratives of the territories.<sup>21</sup> The relevant inquiry, however, is into the relationship, physically and economically, between the specific station and cable communities at issue. NBC focuses on this second factor almost exclusively, and claims it is dispositive.<sup>22</sup> The parties agree that the OneLink and Liberty communities are an average of 77 and 87 miles, respectively, from the WVXF transmitter. This physical distance, asserts NBC, is by itself indicative of a lack of local connection with the OneLink and Liberty communities.<sup>23</sup> NBC also notes the difficulty of travel between the communities, although there is some difference of opinion on this question.<sup>24</sup> It emphasizes the "open ocean" lying between Charlotte Amalie and the main island of Puerto Rico, quoting a Commission decision that stated "large bodies of water can act as barriers that naturally separate economic markets."<sup>25</sup> Storefront cites a number of cases where similar or longer distances were not found to be dispositive in determining the inclusion or exclusion of communities from a market.<sup>26</sup> It also argues that the ocean should in this case, be considered a unifying rather than dividing feature, because the Virgin Islands and the islands of Puerto Rico are both in the Caribbean, hundreds of miles from other U.S. television markets.<sup>27</sup> Storefront provides a Longley-Rice analysis<sup>28</sup> showing signal coverage of at least part of several Liberty communities.<sup>29</sup> It also notes that the Commission has indicated a number of ways for stations to demonstrate "other local service."<sup>30</sup> These include not only geographic and signal strength tests, but also "a station's broadcast of local programming which has a distinct nexus to the cable communities."<sup>31</sup> NBC argues that lack of signal coverage in all of the communities is "sufficient reason to deny the petition,"<sup>32</sup> dismissing the communities that are covered on the grounds that that Longley-Rice is a suboptimal approach to analyzing signal strength in this case.<sup>33</sup> Storefront argues that Longley-Rice is more accurate in this case because it shows that the signal will

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<sup>20</sup> Opposition at 6.

<sup>21</sup> Petition at 15-16.

<sup>22</sup> Opposition at 6, 15.

<sup>23</sup> *Id.* at 7-10

<sup>24</sup> Petition at 17; Opposition at 7-8.

<sup>25</sup> *Comcast Cablevision of Danbury*, 18 FCC Rcd 274 (2003).

<sup>26</sup> Petition at n. 48.

<sup>27</sup> *Id.* at 14-15.

<sup>28</sup> In this case, a signal strength of greater than 41 dBu constitutes an "available" signal. 47 C.F.R. §73.622(e)(2).

<sup>29</sup> Fajardo, Ceiba, Naguabo, Humacao, Yabucoa, and possibly Las Piedras.

<sup>30</sup> Petition at 10; Reply at 7.

<sup>31</sup> Petition at 10 (citing *Frontiersvision Operating Partners, L.P. D/B/A Adelphia Cable Communications*, 16 FCC Rcd 17745, 17753 (CSB 2001)).

<sup>32</sup> Opposition at 15.

<sup>33</sup> *Id.* at 14.

travel farther over water than over land.<sup>34</sup> NBC argues that lack of over-the-air coverage is generally sufficient reason in and of itself to reject a market modification petition.<sup>35</sup>

9. Storefront disagrees sharply with NBC's characterization of the "coverage or other local service" inquiry, arguing that, substantively, WVXF provides significant local service to the cable communities, despite being unable to provide many of them with over-the-air service. Although primarily carrying English language programming, it also provides a significant amount of Spanish language programming, ensuring that it can provide value to almost all residents of the cable communities.<sup>36</sup> Since the commencement of carriage in the communities, it has partnered with El Nuevo Día, a daily San Juan newspaper, to air one minute news "capsules," produced in Puerto Rico and addressing matters of local interest to viewers in the cable communities. For example, Storefront notes, it provided regular coverage of the 2008 election for Governor of Puerto Rico.<sup>37</sup> It also airs daily community bulletins, including during prime time, providing on-screen information that is specifically targeted to viewers in the OneLink and Liberty communities. It provides examples of such bulletins that it has aired targeting viewers in the communities of Dorado, San Juan, Guaynabo, Bayamon, Barceloneta, Carolina, and Yabucoa, among others.<sup>38</sup> As discussed in more detail below, WVXF derives the bulk of its advertising revenue from Puerto Rico advertisers,<sup>39</sup> but it also airs many Public Service Announcements in support of organizations in the communities and directed toward the residents of those communities.<sup>40</sup> NBC does not dispute the local nature or local value of any of this programming. There is some disagreement about whether WVXF is properly listed in an electronic television viewing guide, but Storefront also provides a newspaper clipping that shows its presence on the "Cable" listings for the communities.<sup>41</sup>

10. NBC devotes a substantial portion of its Opposition to discussion of the other stations that serve the OneLink and Liberty communities. Evidently acknowledging Storefront's argument that the third statutory factor is inapposite,<sup>42</sup> NBC argues that evidence of this existing service goes to the

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<sup>34</sup> Petition at 10.

<sup>35</sup> Opposition at 14.

<sup>36</sup> Although more than 95% of Puerto Rico's residents speak primarily Spanish at home, 25% speak some English. Opposition at 3, Petition at 10.

<sup>37</sup> Petition at Exhibits 9 and 10.

<sup>38</sup> *Id.* at 11-12.

<sup>39</sup> *See infra* ¶ 14.

<sup>40</sup> Petition at 12-13. WVXF is also involved with sponsoring events in the cable communities.

<sup>41</sup> Opposition at 11; Petition at Exhibit 15.

<sup>42</sup> Petition at n. 12 (citing Commission cases explaining that "we do not believe that Congress intended the third criterion to operate as a bar to a station's [market modification] claim whenever other stations could also be shown to serve the communities at issue. Rather, we believe that this criterion was intended to enhance a station's claim where it could be shown that other stations do not serve the communities at issue." *Pappas Telecasting Inc.*, 11 FCC Rcd 6102, 6107 (CSB 1996)). We agree that the second factor, concerning WVXF's own coverage and service to the communities, is significantly more relevant in the instant case.



second factor because it demonstrates that WVXF proposes to improperly encroach on an economic “hub” of the Puerto Rico television market.<sup>43</sup> NBC cites to cases where the Commission expressed concern about use of the market modification process to “alter the basic structure of [television] markets.”<sup>44</sup> Storefront argues that the cited cases are distinguishable from the instant case, because the stations in the cited cases did not provide evidence of historical carriage or viewership patterns, or undisputed evidence of local service.<sup>45</sup> It also argues that, given the historical and current carriage of WVXF, NBC should have been able to point to specific adverse impacts on the television market in the communities if such was likely to occur.<sup>46</sup>

11. Regarding the question of distance, Storefront correctly notes that the Commission has added and declined to exclude communities from the markets of stations that were separated by a similar distance as WVXF and the OneLink and Liberty communities.<sup>47</sup> More importantly, while we disagree with Storefront that the ocean should be considered a “unifying” factor, we agree that it is relevant that these are both island territories, and that they are within a comparatively few miles of each other.<sup>48</sup> Both the Virgin Islands and Puerto Rico encompass multiple islands, some with substantial open water between them. We do not believe that this fact alone should serve to preclude a unified market, particularly in the case of island markets.

12. Additionally, while we have noted that “[s]ervice *may* be measured through geographic means ... [a] station's broadcast of local programming, which has a distinct nexus to the cable communities, is also evidence of local service.”<sup>49</sup> We have, on a number of occasions, added communities to, or declined to exclude them from, the markets of stations that do not cover those communities with a Grade B signal.<sup>50</sup> The Bureau has explicitly stated that “grade B contours ... are not to be used as an absolute measure of the scope of the station's market.”<sup>51</sup> As for the dispute over use of Longley-Rice, the Commission’s rules specifically invite Longley-Rice analysis in market modification

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<sup>43</sup> Opposition at 10-13.

<sup>44</sup> *Id.* at n. 34.

<sup>45</sup> Reply at 14.

<sup>46</sup> *Id.*

<sup>47</sup> Petition at n. 48. *See also*, *Time Warner Entertainment-Advance/Newhouse Partnership*, 13 FCC Rcd 5900 (CSB 1997) (Commission refused to exclude cable communities approximately 75 miles from the station’s community of license).

<sup>48</sup> Petition at 14.

<sup>49</sup> *Pegasus Cable Television of San German, Inc. and MCT Cablevision, Limited Partnership*, 14 FCC Rcd 17849 (CSB 1999) (emphasis added).

<sup>50</sup> The similar standard of signal quality in digital broadcasting is the provision of a 41 dBu signal. *See supra* n. 31.

<sup>51</sup> *Avenue TV Cable Service, Inc.*, 11 FCC Rcd 4803 at note 32 (CSB 1996). *See also*, *Jasas Corp.*, 14 FCC Rcd 6968, 6972 (CSB 1999); *Busse Broadcasting Corp. Eau Claire, Wisconsin*, 11 FCC Rcd 6408, 6413 and 6422 (CSB 1996); *Time Warner Cable, Inc.*, DA 09-1001 at para. 14 (MB May 1, 2009) (incomplete grade B coverage).

cases, and we are not convinced that we should discount such evidence in this case.<sup>52</sup> Regardless, precise contours are less important in situations where, as here, the station has demonstrated a history of providing substantial local service to the communities. This is shown not only in WVXF's programming, much of which is directed at the cable communities, but also in the strong relationships it has with local advertisers and local organizations like newspapers and community nonprofits. Furthermore, these two markets are almost unique in that they exclusively border each other. Other television markets tend to be either in the "Lower 48" states, or totally isolated from all other markets.<sup>53</sup> Both Puerto Rico and the Virgin Islands have one, and only one, other television market with which they might plausibly interact under the carriage rules. To rely on a formalistic analysis of signal coverage to impose an absolute bar to any such interaction would ignore geographic reality and irrationally treat these two adjacent television markets as though they were as isolated as the Guam or Hawaii markets. The geographic relationship of these two television markets, therefore, significantly diminishes the weight we accord to WVXF's signal coverage in the communities.

13. On the question of "hub infringement," we agree with Storefront that it is not a concern in this case. The decisions cited by NBC dealt with stations that in general could show no strong economic ties to the communities in question. In one of those cases, the Bureau specifically determined that "inclusion of the communities at issue would modify the basic nature and competitive relationships within the core area of the" relevant markets,<sup>54</sup> and made an almost identical finding in the other.<sup>55</sup> In the instant case, WVXF has already been serving the communities in question. Furthermore, NBC provides no evidence that it competes with WVXF for viewers, or is in danger of suffering economic harm from the expansion of WVXF's market. WKAQ, the Puerto Rico station owned by NBC, is a Telemundo affiliate, presumably directs its programming toward the 95 percent of Puerto Rico residents who speak Spanish at home,<sup>56</sup> and is one of the top two stations in the market.<sup>57</sup> WVXF, on the other hand, is a niche station, serving the significantly smaller English speaking population, and is the only CBS programming available in the Caribbean.<sup>58</sup> We therefore decline to find that making WVXF's signal available in the economic hub of the Puerto Rico television market would constitute a threat to the "basic nature and competitive relationships" of that market. Taken as a whole, then, our analysis of factor two supports Storefront's petition for an expanded market.

14. The last of the nonexclusive factors Congress has directed the Commission to consider is evidence of viewing patterns. There is little in the record on this question, but Storefront has provided a

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<sup>52</sup> 47 CFR §76.59 Note to Paragraph (b)(2).

<sup>53</sup> The Anchorage and Fairbanks markets also border only each other, although the distance between the cities at the "economic hub" of those two markets is approximately 260 miles, or more than three times the distance between San Juan and Charlotte Amalie.

<sup>54</sup> *Agape Church, Inc.*, 14 FCC Rcd 2309, 2318 (CSB 1999).

<sup>55</sup> *Community Television Systems, Inc.*, 15 FCC Rcd 7275 (CSB 1999).

<sup>56</sup> Opposition at 3.

<sup>57</sup> Petition at Exhibit 5.

<sup>58</sup> *Id.* at 2.



Nielsen study showing it with a 2 percent share in the Puerto Rico television market.<sup>59</sup> The same study also demonstrates that WVXF attracts an audience larger than or similar in size to other English-language stations in the market. Indeed, the other major network affiliates available in the market had identical or lower shares than WVXF, and all drew lower ratings.<sup>60</sup> It also argues that the large amount of advertising revenue it derives from Puerto Rico-based advertisers demonstrates its reach in the communities.<sup>61</sup> Despite its comparatively small share of the Puerto Rico market, WVXF states that it draws more than 75 percent of its advertising revenue from Puerto Rico advertisers.<sup>62</sup> In addition, more than 87 percent of that advertising was truly local, meaning that over 65 percent of WVXF's advertising revenue comes from advertisers who are local to the communities.<sup>63</sup> Furthermore, as Storefront explains, WVXF is essentially a specialty or niche station.<sup>64</sup> It is a predominantly English language station, and as NBC points out, 95 percent of the residents of Puerto Rico speak Spanish at home.<sup>65</sup> As a specialty station, it would be expected to have a smaller audience.<sup>66</sup>

15. As in the case of historical carriage, neither the information Storefront has provided, nor its arguments regarding the relevance of that data, are disputed or even directly addressed by NBC in their opposition. Storefront correctly notes that the Commission has granted market modifications to petitioner stations with similarly low viewership levels.<sup>67</sup> Furthermore, we acknowledge that as a station with a specialized format, WVXF may have difficulty developing substantial numbers of viewers, but that the station may nonetheless be particularly valuable to underserved populations within a community.<sup>68</sup> We also give particular weight to the fact that Storefront draws the bulk of its revenue from Puerto Rico advertisers, a clear indication of economic ties that provide value to the Puerto Rico communities in question.<sup>69</sup> We consider WVXF's evidence of viewing patterns to be a factor strongly

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<sup>59</sup> *Id.* at Exhibit 5.

<sup>60</sup> *Id.* (the only English language station with better than a 3 share was TNT).

<sup>61</sup> *Id.* at 8.

<sup>62</sup> *Id.* at 8, Exhibit 6.

<sup>63</sup> *Id.* at Exhibit 6.

<sup>64</sup> *Id.* at n. 27. *See also*, Reply at 2-3.

<sup>65</sup> Opposition at 3.

<sup>66</sup> Reply at 2.

<sup>67</sup> See Petition at n. 27 (citing *Seal Rock Broadcasters, LLC*, 18 FCC Rcd 16262 (MB 2003); *KSBW License, Inc.*, 11 FCC Rcd 2368 (CSB 1996), etc).

<sup>68</sup> See, e.g., *KTNC Licensee, LLC*, 18 FCC Rcd 16269, 16278 (MB 2003); *Falcon Cable Systems Co. II, L.P.*, 18 FCC Rcd 23774, 23781 (MB 2003).

<sup>69</sup> We disagree with NBC that this alone serves to demonstrate a lack of commitment to serving its community of license in the Virgin Islands. See Opposition at 3, 15. NBC does not expand on this point, but implies that WVXF's demonstrated commitment to providing local service to the OneLink and Liberty communities, along with the substantial revenue it receives from advertisers in those communities, show that it may not be meeting its public service obligations to Charlotte Amalie. While we do not dismiss the possibility of a station under-serving its community of license in favor of another community, such a danger is highly speculative. As Storefront's Reply (continued....)

supporting its petition.

#### IV. CONCLUSION

16. The average distance between WVXF and the communities, standing alone, is an argument against expanding WVXF's market beyond the communities over which it is predicted to place a strong signal. As discussed above, however, we recognize that the unusual geographic relationship of these two island markets outweighs formalistic concerns about over-the-air signal strength. Furthermore, Storefront provides a robust and largely undisputed demonstration of the station's nexus to the communities and the local services it provides to viewers. With more than 75 percent of its advertising revenues coming from Puerto Rico advertisers, there is no question that there is a strong nexus of economic interest between the station and the communities. It has provided evidence of unusually strong viewership for a specialty station. We have found that specialty stations often have difficulty getting carriage agreements at all,<sup>70</sup> so WVXF's history of carriage is particularly compelling, especially as it has only sought carriage in communities in which it has historically been carried. Therefore, based on the totality of the evidence in this proceeding, we find that WVXF serves the OneLink and Liberty communities, and that granting Storefront's petition to modify the station's television market to include those communities serves the public interest.

#### V. ORDERING CLAUSES

17. Accordingly, **IT IS ORDERED**, pursuant to Section 614(h) of the Communications Act of 1934, as amended, 47 U.S.C. §534, and Section 76.59 of the Commission's rules, 47 C.F.R. §76.59, that the captioned petition for special relief (CSR-8133-A), filed by Storefront Television **IS GRANTED**, as discussed herein.

18. This action is taken pursuant to authority delegated by Section 0.283 of the Commission's rules.<sup>71</sup>

FEDERAL COMMUNICATIONS COMMISSION

Steven A. Broeckaert  
Senior Deputy Chief, Policy Division  
Media Bureau

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correctly observes, NBC provides no evidence to support this argument despite the fact that WVXF has been providing service to the cable communities for several years. Reply at 17. Without any evidence of real harms to Charlotte Amalie to counteract Storefront's evidence of the real benefits it provides to the cable communities, we decline to give any weight to this argument.

<sup>70</sup> See, e.g., *KTNC Licensee, LLC*, 18 FCC Rcd 16269, 16278 (MB 2003); *Falcon Cable Systems Co. II, L.P.*, 18 FCC Rcd 23774, 23781 (MB 2003); cf. *Family Stations, Inc.*, 18 FCC Rcd 22916, 2292 (MB 2003) ("In analyzing a specialty station's request to modify it[s] television market, historical carriage and local viewership are not as important in the analysis.").

<sup>71</sup> 47 C.F.R. § 0.283.